

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HORACE CRUMP,

Plaintiff,

v.

Case No. 11-CV-12146
Honorable Denise Page Hood

MICHIGAN DEPART OF
CORRECTIONS, *et al.*,

Defendants.

**ORDER ACCEPTING AND ADOPTING THE MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATION, DENYING PLAINTIFF’S MOTION FOR JUDGMENT ON THE
PLEADINGS AND/OR FOR SUMMARY JUDGMENT, AND DISMISSING
DEFENDANT SALAM FROM THIS ACTION**

This matter is before the Court on Magistrate Judge Mona K. Majzoub’s Reports and Recommendations [Docket Nos. 41, 46]. Magistrate Judge Majzoub recommends that the Court deny Plaintiff’s Motion for Judgment on the Pleadings and/or for Summary Judgment and dismiss Defendant Darus Salam pursuant to 28 U.S.C. § 1915(e)(2)(B). No objections were filed. For the reasons stated below, the Court accepts and adopts the Magistrate Judge’s Reports and Recommendations as to its findings of fact and conclusions of law and DENIES Plaintiff’s Motion for Judgment on the Pleadings and/or for Summary Judgment. The Court also DISMISSES Defendant Salam from this action.

When examining a Magistrate Judge’s Report and Recommendation, 28 U.S.C. § 636 governs the standard of review. This Court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is

made.” 28 U.S.C. § 636(b)(1). This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*

The Magistrate Judge first recommends that this Court deny Plaintiff’s Motion for Judgment on the Pleadings and/or Motion for Summary Judgment. The Magistrate Judge notes that Plaintiff attached several pieces of evidence that did not address any of the claims against the remaining Defendants. Plaintiff has not filed any objection to the Magistrate Judge’s findings. The Court accepts and adopts the Magistrate’s analysis and recommendation in its entirety and DENIES Plaintiff’s Motion for Judgment on the Pleadings and/or for Summary Judgment.

Next, the Magistrate Judge recommends that the Court dismiss Defendant Darus Salam because Plaintiff has failed to state a claim against him. Plaintiff has brought this action pursuant to 42 U.S.C. § 1983. However, Defendant Salam is a MDOC vendor and is not a state actor as required under section 1983. *See Skelton v. Pri-Cor, Inc.*, 963 F.2d 100, 102 (6th Cir. 1991). The Court accepts and adopts the Magistrate Judge’s recommendation in its entirety.

Accordingly,

IT IS ORDERED that the Magistrate Judge’s Reports and Recommendations [**Docket Nos. 41 and 46**] are **ACCEPTED** and **ADOPTED** as this Court’s findings.

IT IS FURTHER ORDERED that Plaintiff’s Motion for Judgment on the Pleadings and/or for Summary Judgment [**Docket No. 16, filed September 2, 2011**] is **DENIED**.

IT IS FURTHER ORDERED that Defendant Darus Salam is **DISMISSED** from this action.

IT IS SO ORDERED

Dated: September 28, 2012

s/Denise Page Hood
DENISE PAGE HOOD
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, Friday, September 28, 2012, by electronic and/or ordinary mail.

s/LaShawn Saulsberry
Case Manager